

For:
Introduction and Referral to Planning Commission: 8/5/19
Planning Commission Review: 8/26/19, 10/28/19, 11/14/19, 11/25/19
Public Hearing _____
Adoption _____

THE TOWN OF MOUNT AIRY, MARYLAND

ORDINANCE NO. 2019-13

AN ORDINANCE TO AMEND PART II OF THE CODE OF THE TOWN OF MOUNT AIRY ENTITLED "GENERAL LEGISLATION", CHAPTER 112 ENTITLED "ZONING", ARTICLE II ENTITLED "GENERAL REGULATIONS", SECTION 112-7 ENTITLED "OFF-STREET PARKING"; ARTICLE V ENTITLED "PROVISIONS GOVERNING COMMERCIAL DISTRICTS", SECTION 112-37.1 ENTITLED "DOWNTOWN ZONE (DTZ)"; AND ARTICLE VIII ENTITLED "BOARD OF APPEALS", SECTION 112-62 ENTITLED "SPECIAL EXCEPTIONS"

WHEREAS, by means of text amendment, Ordinance 2016-23, the Town Council as comprised at the time amended the Town Code provisions as related to residential apartments in the Downtown Zone (DTZ) so as to allow apartments as of right without the requirement of a commercial use on the first floor for properties in the DTZ that did not front onto Main or Center Streets; and

WHEREAS, the current make up of the Town Council has determined that the aforementioned text amendment does not comport with the Town's intent with respect to the DTZ to encourage mixed uses, rather than purely residential projects within the DTZ and desires to repeal text amendment 2016-23, and to permit purely residential projects only by a new special exception; and

WHEREAS, recent experience with proposed development on Prospect Avenue, that has proposed main, if not exclusive, ingress and egress along Hill Street, as opposed to Prospect Avenue, which has been found problematic given how narrow and winding Hill Street is thereby posing health and safety issues and other concerns about traffic on Hill Street, has caused the Town Council to codify restrictions on development within the DTZ along Prospect Avenue requiring such to provide main ingress and egress along Prospect, as opposed to on Hill Street; and

WHEREAS, additional provisions of this Ordinance are directed at development within the DTZ and adding requirements for parking and to protect against interference with pedestrian traffic within the DTZ; and

WHEREAS, this ordinance was introduced at the Town Council meeting that occurred on 8/5/19 and, pursuant to the Town Code, Section 112-67 and referred to the Town Planning Commission for review and recommendation; and

WHEREAS, the Planning Commission reviewed this ordinance at its regular meeting on 8/26/19, its regular meeting on 10/28/19, at a special meeting/workshop on 11/14/19 and at its regular meeting on 11/25/19; and

WHEREAS, at its regular meeting on 11/25/19, the Planning Commission recommended adoption of only those changes below proposed for Section 112-37.1B(5 (a) – (d), but recommended against adoption of the remainder of the code changes proposed in this ordinance at this time, which would essentially repeal the text amendment adopted as Ordinance 2016-23 and return the Code to its text prior to adoption of that text amendment; and

WHEREAS, at its regular meeting on 1/6/20, the Town Council reintroduced this ordinance as reflected below and set a public hearing for February 3, 2020 pursuant to the Town Code, Section 112-66A and the Land Use Article of the Maryland Code, Section 4-203(b); and

WHEREAS, the Town Council finds that the changes recommended in this Ordinance are desirable and in the best interests of the Town and its residents; and

WHEREAS, this Ordinance shall apply to any project within the DTZ that has not yet broken ground or to which the developer's rights have not yet vested under the law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:

Section 1. That Part II, Chapter 112, Article II, Section 112-7 of the Code of the Town of Mount Airy is hereby repealed and reenacted with amendments as follows:

§ 112-7. Off-street parking.

* * *

B. Spaces required. Off-street parking spaces must be provided for each building erected or enlarged in accordance with the following schedule, except as may be authorized below:

Type of Use	Minimum Parking Spaces	Time of Use (a/b/c/d/e/f)
Residential dwelling (other than apartments)	3 spaces per unit	100/60/100/100/80/100
Residential apartment <u>(except apartment, condominium or loft units in DTZ without frontage on Main Street or Center Street)</u>	2 spaces per unit	100/60/100/100/80/100

Residential apartment,
condominium or loft
units in DTZ without
frontage
on Main Street or
Center Street

3 spaces per bedroom plus
2 extra spaces per residential unit
in addition to parking required for
any commercial component as
required herein

100/60/100/100/80/100

* * *

Section 2. That Part II, Chapter 112, Article V, Section 112-37.1 of the Code of the Town of Mount Airy is hereby repealed and reenacted with amendments as follows:

§ 112-37.1. Downtown Zone (DTZ).

* * *

B. Principally permitted uses. No building or structure may be erected, used or occupied except in accordance with the following principally permitted uses:

* * *

(5) Residential uses. The following residential uses:

- (a) Apartments, on upper floors only (i.e., above primary ground level entry floor ~~for building in which apartment is located, which shall be a commercial use~~), ~~except that for properties which do not have frontage on Main Street or Center Street apartments shall be permitted on all floors;~~
- (b) Condominiums, on upper floors only (i.e., above primary ground level entry floor ~~for building in which condominium is located, which shall be a commercial use~~), ~~except that for properties which do not have frontage on Main Street or Center Street condominiums shall be permitted on all floors;~~
- (c) Loft units, on upper floors only (i.e., above primary ground level entry floor ~~for building in which loft unit is located, which shall be a commercial use~~), ~~except that for properties which do not have frontage on Main Street or Center Street, loft units shall be permitted on all floors; and~~
- (d) Single-family attached homes (with parking or garage area in rear of property).

* * *

C. Special exception uses in the DTZ District. The Board of Appeals may authorize the following special exception uses in accordance with the provisions of Article VIII, § 112-62:

* * *

- (4) For properties which do not have frontage on Main Street or Center Street, a building may be constructed that is solely residential in nature, which may contain the following: Apartments, condominiums or loft units, subject to the specific standards set forth in Section 112-62F(30).

* * *

- H. Any development in the DTZ along Prospect Avenue must provide main ingress and egress direct onto or from Prospect Avenue designed to accommodate the anticipated amount of traffic that will be associated with the development.
- I. Pursuant to Section 112-7, developments in the DTZ which do not have frontage on Main Street or Center Street, that contain a residential component, shall have parking spaces equal to the number of bedrooms per residential unit, plus 2 extra spaces per residential unit in addition to the parking requirements set forth in Section 112-7 for any commercial component of the development.
- J. Developments in the DTZ which do not have frontage on Main Street or Center Street shall not impede or unduly interfere with the free flow of pedestrian traffic on a public path or right-of- away.

Section 2. That Part II, Chapter 112, Article VIII, Section 112-62 of the Code of the Town of Mount Airy is hereby repealed and reenacted with amendments as follows:

§ 112-62. Special exceptions.

* * *

- F. Specific standards for special exception uses. In addition to the general standards for all special exceptions as contained in § 112-62E, the following specific standards for particular uses must be met prior to the granting of a special exception:

* * *

- (30) Properties in the DTZ which do not have frontage on Main Street or Center Street proposing solely residential use, including on the ground entry level floor pursuant to Section 112-37.1C(4) as follows:
- (a) Any structure constructed under this special exception section must not exceed a maximum height of two stories or 24 feet measured from the edge of the principal structure at the average front yard grade level to the interior ceiling of the second story of such principal structure.
- (b) Notwithstanding any provision contained in § 112-53 to the contrary, uses within the Downtown Zone shall be allowed an additional 10 feet in height for architectural and/or mechanical appurtenances on the principal structure.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the _____ day of _____, 2020, but shall specifically apply to any project within the DTZ that has not yet broken ground or to which the developer's rights have not yet otherwise vested under applicable law.

Introduced on the 5th day of August, 2019 and reintroduced on the 6th day of January, 2020.

Enacted this _____ day of _____, 2020 by a vote of _____ in favor and _____ opposed.

ATTEST:

Jason Poirier, Secretary

Larry Hushour,
President of the Town Council

Approved this _____ day of _____, 2020.

ATTEST:

Jason Poirier, Secretary

Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY

This _____ day of _____, 2020.

Thomas V. McCarron, Town Attorney

TVM0036

Wording changes to Ordinance 2019-13 related to parking requirements in the DTZ

§112-37.1. Downtown Zone (DTZ)

- (l) Pursuant to Section 112-7, developments in the DTZ which do not have frontage on Main Street or Center Street, that contain a residential component shall meet the following requirements related to parking;
- a. 2 spaces per 1-bedroom unit; or
 - b. Any residential unit containing more than one bedroom shall allow 1 parking space per bedroom per residential unit; and
 - c. Shall allow 1 extra space per (x) residential units.

§112-7 Off – Street Parking

Residential apartment, condominium or loft units in DTZ without frontage on Main Street or Center Street

2 spaces per bedroom; or
1 space per bedroom for a residential unit containing more than one bedroom; and
Shall allow 1 extra space per (x) residential units in addition to parking required for any commercial component as required herein

100/60/100/100/80/100